

SIKKIM



GOVERNMENT

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**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 11/LD/17

Dated: 6/10/2017

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 8th day of September, 2017 is hereby published for general information :-

THE SIKKIM PUBLIC RECORDS ACT, 2017

(ACT NO. 11 OF 2017)

AN

ACT

to regulate the management, administration and preservation of the public records of the State Government, public sector undertakings, statutory bodies and the corporations, commissions and committees constituted by the State Government and for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of Sikkim in the Sixty-eighth Year of the Republic of India as follows:-

**Short title and
commencement**

1. (1) This Act may be called the Sikkim Public Records Act, 2017.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definition

2. In this Act, unless the context otherwise requires,-
 - (a) "Board" means the Archival Advisory Board constituted under Section 12.
 - (b) "Director" means the Director of Archives appointed by the State Government and includes any officer authorised by the State Government to perform the duties of the Director;
 - (c) "head of Archives" or "Archives Officer" means a person holding the charge of the Archives of the State Government;

- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "public records" includes,-
 - (i) any document, manuscript and file;
 - (ii) any microfilm, microfiche and facsimile copy of a document;
 - (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
 - (iv) any other material produced by a computer or by any other device, of any records creating agency;
- (f) a records creating agency includes,-
 - (i) in relation to the State Government, any Department or Office of the Government;
 - (ii) in relation to any statutory body or corporation wholly or substantially controlled or financed by the State Government or Commission or any committee constituted by that Government, the offices of the said body, corporation, commission or committee;
- (g) "records officer" means the officer nominated by the record creating agency.

Power of the State Government to coordinate, regulate and supervise the operations connected with the administration, management, etc., of public records.

- 3. (1) The State Government shall coordinate, regulate and supervise the operations connected with the administration, management, preservation, selection, disposal and retirement of public records under this Act.
- (2) The State Government in relation to the public records of the records creating agencies, may, authorise the Director or the head of Archives, as the case may be, subject to such conditions as may be specified in the order, to carry out all or any of the following functions, namely:-
 - (a) supervision, management and control of the Archives;
 - (b) acceptance for deposit of public records of permanent nature after such period as may be prescribed;
 - (c) custody, use and withdrawal of public records;
 - (d) arrangement, preservation and exhibition of public records;
 - (e) preparation of inventories, indices, catalogues and other reference media of public records;
 - (f) analysing, developing, promoting and coordinating the standards, procedures and the techniques for improvement of the records management system;
 - (g) ensuring the maintenance, arrangement and security of public records in the Archives and in the offices of the records creating agency;

- (h) promoting utilisation of available space and maintenance of equipments for preserving public records;
- (i) tendering advice to records creating agencies on the compilation, classification and disposal of records and application of standards, procedures and techniques of records management;
- (j) survey and inspection of public records;
- (k) organising training programmes in various disciplines of Archives administration and records management;
- (l) accepting records from any private source;
- (m) regulating access to public records;
- (n) receiving records from defunct bodies and making arrangement for securing public records in the event of national emergency;
- (o) receiving reports on records management and disposal practices from the records officer;
- (p) providing authenticated copies of, or extracts from, public records;
- (q) destroying or disposal of public records;
- (r) obtaining on lease or purchasing or accepting as gift any document, pictures or films of historical or national importance.

**Prohibition
against taking of
public records
out of State**

4. No person shall take or cause to be taken out of State any public records without the prior approval of the State Government:
Provided that no such prior approval shall be required if any public records are taken or sent out of State for any official purpose.

Records Officer

5. (1) Every records creating agency shall nominate one of its officers as records officer to discharge the functions under this Act.
- (2) Every record creating agency may set up such number of record rooms in such places as it deems fit and shall place each record room under the charge of a Records Officer.

**Responsibilities
of a Record
Officer**

6. (1) The Records Officer shall be responsible for,-
- (a) proper arrangement, maintenance and preservation of public records under his/her charge;
 - (b) periodical review of all public records and weeding out public records of ephemeral value;
 - (c) appraisal of public records which are more than 25 (twenty five) years old in consultation with State Archives with a view to retaining public records of permanent value;

- (d) destruction of unnecessary public records in such manner and subject to such conditions as may be prescribed;
- (e) compilation of a Schedule of Retention for public records in consultation with the State Archives;
- (f) periodical review for downgrading of classified public records in such manner as maybe prescribed;
- (g) adoption of such standards, procedures and techniques as may be recommended from time to time by the National Archives of India for improvement of record management system and maintenance of security of public records;
- (h) compilation of Annual indices of public records;
- (i) compilation of organisational history and annual supplement thereto;
- (j) submission of annual report to the Director State Archives or, as the case may be, head of the Archives or the Archives Officer in such manner as may be prescribed;
- (k) transferring of records of any defunct body to the State Archives for preservation;

(2) The Records Officer shall act under the direction of the Director, State Archives or head of archives.

Appropriate action against the unauthorized removal, destruction, etc., of public records

7. (1) The Records Officer shall in the event of any unauthorised removal, destruction, defacement or alteration of any public records under his charge, forthwith take appropriate action for the recovery or restoration of such public records.
- (2) The Records Officer shall submit a report in writing to the Director State Archives or head of archives without any delay on any information about any unauthorised removal, destruction, defacement or alteration of any public records under his/her charge and about the action initiated by him and shall take action as he/she may deem necessary subject to the directions, if any, given by the Director State Archives, or as the case maybe, head of the Archives/Archives Officer.
- (3) The Records Officer may seek assistance from any Government officer or any other person for the purpose of recovery or restoration of public records and such officer or person shall render all assistance to the Records Officer.

Destruction or disposal of public records

8. Save as otherwise provided in any law for the time being in force, no public record shall be destroyed or otherwise disposed off except in such manner and subject to such conditions as may be prescribed.

Penalty for contraventions 9. Whoever contravenes any of the provisions of section 4 or section 8 shall be punishable with imprisonment for a term which may extend to 5 (five) years or with fine which may extend to ten thousand rupees or with both.

Receipt of records from private sources. 10. (1) The State Archives may accept any record of historical or national importance from private source by way of gift, purchase or otherwise.
(2) The State Archives may, subject to such conditions as may be prescribed, make any record available to any *bona fide* research scholar.

Access to public records. 11. (1) All unclassified public records as are more than 30 (thirty) years old and are transferred to the State Archives, subject to such exceptions and restrictions as may be prescribed made available to any *bona fide* research scholar.

Explanation:- For the purpose of this sub-section, the period of 30 (thirty) years shall be reckoned from the year of the opening of the public record.

(2) Any records creating agency may grant to any person access to any public records in its custody in such manner and subject to such conditions as may be prescribed.

Archival Advisory Board. 12. (1) The State Government may, by notification in the Official Gazette, constitute an Archival Advisory Board for the purposes of this Act.

(2) The Board shall consist of the following members, namely:-

(a) Secretary Cultural Affairs and Heritage Department -

Chairman, *ex officio*;

(b) Officers not below the rank of Joint Secretary to the Government of Sikkim from the Cultural Affairs and Heritage Department, Finance Revenue and Expenditure Department, Department of Personnel, Administrative Reform & Training, Public Grievance, and Home Department -

Members, *ex officio*;

(c) Two persons to be nominated by the State Government for a period not exceeding three years, one being an Archivist and other being Professor in the Post-graduate Department of History in any recognized University.

(d) Director, Archives or Head of Archives -

Member Secretary, *ex officio*.

(3) The Members nominated under clause (c) of sub-section (2) shall be paid such allowances as may be prescribed.

- Functions of the Board.** 13. The Board shall perform the following functions, namely:-
- (a) advise the State Government on matters concerning the administration, management, conservation and use of public records;
 - (b) lay down guidelines for training of Archivists;
 - (c) give directions for acquisition of records from private custody;
 - (d) deal with such other matters as may be prescribed.
- Power of Director Archives to lay down norms for courses and standard in archival science.** 14. The Director Archives or Head of Archives shall have the power to lay down norms and standards for courses curricula, assessment and examinations relating to the training in archival science and other ancillary subjects.
- Protection of action taken in good faith.** 15. No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.
- Power to make rules.** 16. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the periods after which public records of permanent nature may be accepted under clause (b) of sub-section (2) of section 3;
 - (b) the manner in which and the conditions subject to which public records can be destroyed under clause (d) of sub section (1) of section 6;
 - (c) the manner in which periodical review of classified public records for downgrading shall be undertaken under clause (f) of sub section (1) of section 6;
 - (d) the manner in which the records officer will report to the Director Archives or head of archives under clause (j) of sub section (1) of section 6;
 - (e) the manner in which and the conditions subject to which public records maybe destroyed or disposed off under sub section (1) of section 8;
 - (f) the manner in which and the conditions subject to which records of historical, regional or national importance may be made available to research scholar under sub-section (2) of section 10;

- (g) exceptions and restrictions subject to which public records may be made available to a research scholar under sub-section (1) of section 11;
- (h) the manner in which and the conditions subject to which any records recreating agency may grant to any person access to public records in its custody under sub-section (2) of section 11;
- (i) the allowances payable to members of the Board under sub-section (3) of section 12;
- (j) the matters with respect to which the Board may perform its functions under clause (d) of section 13;
- (k) any other matter which is required to be, or may be, prescribed.

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